

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: Ness et al.

Confirmation No: 6691

Serial No.: 10/736,997

Group Art Unit: 1652

Filed: December 15, 2003

Examiner: W. Moore

For: Subtilisin Variants

**TERMINAL DISCLAIMER TO OBVIATE A  
DOUBLE PATENTING REJECTION OVER A PRIOR PATENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

I am an attorney or agent of record for the instant application.

Novozymes A/S and Maxygen, Inc., the owners of the entire interest in the instant application hereby disclaim, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior U.S. Patent No. 6,902,922. The owners hereby agree that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owners do not disclaim the terminal part of any patent granted on the instant application that would extend beyond the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer.

Please charge the required fee, estimated to be \$110.00, to Novozymes North America, Inc. Deposit Account No. 50-1701. A duplicate of this sheet is enclosed.

Respectfully submitted,

Date: January 3, 2007

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